



December 6, 2017

The Honorable Ron Wyden
Ranking Member
Senate Finance Committee
Washington, DC

The Honorable Patty Murray
Ranking Member
Senate HELP Committee
Washington, DC

The Honorable Robert Casey, Jr.
Ranking Member
Senate Special Committee on Aging
Washington, DC

Dear Senators Wyden, Murray and Casey:

On December 1, 2017 the Department provided your staffers with the copy of a document utilized by Secretary Price during a meeting with Members of Congress.

This letter is to confirm that this is the document utilized at a March 23 meeting between Secretary Price and Members of the House of Representatives. We are not aware of any other Department of Health and Human Services materials being utilized during the meeting.

Thank you,

A handwritten signature in cursive script that reads "Barbara Pisaro Clark".

Barbara Pisaro Clark
Acting Assistant Secretary for Legislation

Potential Administrative Marketplace Reforms

The Secretary of Health and Human Services has significant authority to improve the individual and small group markets most harmed by Obamacare. This authority includes the ability to consider and implement changes in the following areas:

1. **Special Enrollment Periods***
 - Require 100% pre-enrollment verification of Special Enrollment Periods
2. **Grace Periods***
 - Tighten rules around grace periods such that an issuer could require an individual to pay unpaid back premiums when they attempt to re-enroll with the same insurer
3. **Open Enrollment Periods***
 - Shorten the open enrollment period to six weeks to prevent adverse selection and better align with employer sponsored insurance and Medicare
4. **Network Adequacy***
 - Return oversight authority for network adequacy to states
5. **Essential Health Benefits**
 - Give states the authority to select the EHB benchmark, and the primary jurisdiction to enforce EHB compliance and interpret EHB rules, including state EHB benchmarks
6. **Section 1332 waivers* (apply to the individual and small group markets)**
 - HHS issued a letter to states indicating that we will be providing technical assistance and expedited review for Alaska-style reinsurance 1332 waivers that reduce premiums
 - HHS and Treasury have the authority to set up an expedited review and approval pathway for these waivers
7. **Third Party Payment of Premiums**
 - Some health care providers have been counseling patients to bypass Medicaid and Medicare coverage and steer them to Affordable Care Act marketplace plans that are more lucrative to providers (as much as \$200k a year for some providers)
 - This form of steering is not only detrimental to the patients in the individual market without access to public health programs who bear the cost, but it can be particularly harmful for ESRD patients because many of those plans didn't include coverage for transplant, and put patients at risk for mid-year disruptions in coverage
 - HHS has the authority to protect individual market enrollees by regulating this practice
8. **Permit lower cost direct enrollment pathways for issuers, brokers, and states**
 - Improve HHS operational capabilities to give more flexibility to states, issuers, and web brokers for direct enrollment
 - This would allow the free market to design better consumer tools, apps, and other technology to enroll more people, including the young and healthy
9. **Benefit Design Flexibility**
 - Return authority to states for review of benefit designs and formularies and eliminate federal outlier review
 - Permit more flexibility in innovative reference-based pricing benefit designs and reduce administrative burden on issuers
10. **Encourage states to build "skinny exchanges"**
 - Modify existing rules to allow more efficient, "skinny" state exchanges that cost less and rely more on private sector innovation